

FILED

IN THE UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

FOR THE DISTRICT OF NEW MEXICO

OCT 06 2011

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARK L. SEDILLO,

Defendant.

MATTHEW J. DYKMAN

CLERK

No. CIV 11-0342 JB/KBM

No. CR 08-1419 JB

MEMORANDUM OPINION AND ORDER ADOPTING MAGISTRATE
JUDGE'S PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

BAK & P
Amended *DOB* *10/6/11*

THIS MATTER comes before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition, filed September 2, 2011 (Doc. 20 in the civil case). The Honorable Karen B. Molzen, Chief United States Magistrate Judge, recommends that the Court: (i) approve the parties' Stipulations filed September 2, 2011 (Doc. 19); (ii) permit Defendant Mark Sedillo to execute the written Amendment to Plea Agreement, which is attached as an exhibit to the Stipulations; and (iii) re-sentence Sedillo in accordance with that amended plea agreement. In light of the parties' stipulations and agreement, the parties waived a period for objections and agreed that this matter should be submitted immediately to the Court for its consideration. See Stipulations at 4 ¶ 13. Having reviewed the submissions, the Court agrees with Chief Judge Molzen that implementation of the parties' agreed settlement of this habeas matter comports with the interest of justice.

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IT IS ORDERED that: (i) the Chief Magistrate Judge's Proposed Findings and Recommended Disposition, filed September 2, 2011 (Doc. 20), are adopted; (ii) Defendant Mark L. Sedillo be returned to the District of New Mexico for a hearing at which the Amendment to Plea

Agreement be accepted pursuant to the parties' agreement, in open court; (iii) at the time that the Amendment to Plea Agreement is accepted, Sedillo be re-sentenced to a sentence of time served, followed by one year of supervised release; ^{for § 2255 (cont)} (iv) Sedillo be immediately released from incarceration at the conclusion of the hearing before the Court when the Amendment to Plea Agreement is accepted and Sedillo is re-sentenced; ^{for § 2255} and (v) ~~upon the Court's acceptance of the Amendment to Plea Agreement and his re-sentencing in accordance with that agreement~~ Sedillo's § 2255 motion shall be deemed granted in accordance with the stipulations of the parties. All Sedillo's remaining claims shall be dismissed with prejudice.


UNITED STATES DISTRICT JUDGE

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